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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,477	11/21/2003	Masaharu Nishimura	Q78517	8115

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SUGHRUE MION, PLLC
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EXAMINER

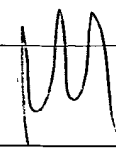
KIM, TAE JUN

ART UNIT	PAPER NUMBER
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3746

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,477	Applicant(s) NISHIMURA ET AL. 	
	Examiner Ted Kim	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 and 8 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 4-6, 8 are objected to because of the following informalities: the terms "innermost" and "outermost" are a relative terms which are not defined by the claim nor the specification. There is nothing in the structure of the damper to render it clear which portion is referred to as the innermost and which is the outermost.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 4-6, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Squirrell (5,329,970). Squirrell teach a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage 11 for discharging exhaust gas of a gas turbine, an exhaust boiler 4 branched from said gas turbine exhaust passage, and a damper 10, 16 provided at a branch portion 2 between said exhaust boiler and said gas turbine exhaust passage, wherein said damper 10, 16 is made of

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an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less which is porous from its innermost portion to its outermost portion as fluid flows freely through porous member 16. this reference, both along the length and from one side to the other side are covered by "from its innermost portion to its outermost portion." The damper is fluidically transmissive/porous with a frame and thus an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less. Also note that such low frequency noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies.

4. Claims 4-6, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Bachmann (4,932,437). Bachmann teaches a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage for discharging exhaust gas of a gas turbine, an exhaust boiler branched from said gas turbine exhaust passage (col. 1, lines 7-41), and a damper 17 provided at a branch portion between said exhaust boiler and said gas turbine exhaust passage. The damper is fluidically transmissive/porous with openings 40 in 38 with a frame and thus an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less which is porous from its innermost portion to its outermost portion from holes 40 in each side wall 38 to the opposite side wall 38 (in the radial direction along the damper). Also note that such low frequency

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noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies.

5. Claims 4-6, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Shutz et al (6,050,084). Shutz et al teach a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage 4 for discharging exhaust gas of a gas turbine, an exhaust boiler 6 branched from said gas turbine exhaust passage, and a damper 40' provided at a branch portion between said exhaust boiler and said gas turbine exhaust passage, wherein said damper (col. 6, lines 15-44) is made of an acoustically transmissive material (insulating wool/fabric mats 72 or the cooling channels that communicate with cooling holes 60) that may sufficiently transmit a low frequency noise of several tens of Hz or less which is porous from its innermost portion to its outermost portion along the length of the damper. Also note that such low frequency noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 4-6, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Squirrell (5,329,970). Squirrell teach a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage 11 for discharging exhaust gas of a gas turbine, an exhaust boiler 4 branched from said gas turbine exhaust passage, and a damper 10, 16 provided at a branch portion 2 between said exhaust boiler and said gas turbine exhaust passage, wherein said damper 10, 16 is made of an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less which is porous from its innermost portion to its outermost portion as fluid flows freely through porous member 16. The damper is fluidically transmissive/porous with a frame and thus an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less. Also note that such low frequency noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies. It would have been obvious to one of ordinary skill in the art that the damper will allow low frequencies to be acoustically transmissive through the damper.

8. Claims 4-6, 8 are rejected under 35 U.S.C. 103(a) as being obvious over Bachmann (4,932,437). Bachmann teaches a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage for discharging exhaust gas of a gas turbine, an exhaust boiler branched from said gas turbine exhaust passage (col. 1, lines 7-41), and a damper 17 provided at a branch portion between

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said exhaust boiler and said gas turbine exhaust passage. The damper is fluidically transmissive/porous with openings 40 in 38 with a frame and thus an acoustically transmissive material that may sufficiently transmit a low frequency noise of several tens of Hz or less which is porous from its innermost portion to its outermost portion from holes 40 in each side wall 38 to the opposite side wall 38 (in the radial direction along the damper). Also note that such low frequency noises are very difficult to attenuate and hence any damper will be acoustically transmissive at these low frequencies. It would have been obvious to one of ordinary skill in the art that the damper will allow low frequencies to be acoustically transmissive through the damper.

9. Claims 4-6, 8 are rejected under 35 U.S.C. 103(a) as being obvious over Shutz et al (6,050,084). Shutz et al teach a damper system for a gas turbine exhaust passage comprising a gas turbine exhaust passage 4 for discharging exhaust gas of a gas turbine, an exhaust boiler 6 branched from said gas turbine exhaust passage, and a damper 40' provided at a branch portion between said exhaust boiler and said gas turbine exhaust passage, wherein said damper (col. 6, lines 15-44) is made of an acoustically transmissive material (insulating wool/fabric mats 72 or the cooling channels that communicate with cooling holes 60) that may sufficiently transmit a low frequency noise of several tens of Hz or less which is porous from its innermost portion to its outermost portion along the length of the damper. Also note that such low frequency noises are very difficult

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to attenuate and hence any damper will be acoustically transmissive at these low frequencies. It would have been obvious to one of ordinary skill in the art that the damper will allow low frequencies to be acoustically transmissive through the damper.

Response to Arguments

10. Applicant's arguments filed 07/15/2004 have been fully considered but they are not persuasive.

Applicant's arguments revolve around the new limitations added by amendment of damper that is porous from its innermost portion to its outermost portion. However, applicant has not defined in which direction the innermost and outermost portion can be considered and hence it can be considered to be along the length of the damper. Hence, for Shutz et al, either the flow channels which connect to 60 or the insulating layers 74 can be considered to be along porous from the innermost portion to its outermost portion along the length of the damper.

In an analogous fashion, Bachmann also has a damper that is porous from its innermost portion to its outermost portion.

Squirrel teaches a porous damper 18 which freely allow flow from its innermost portion to its outermost portion, in which both along the length and from one side to the other side are covered by this interpretation.

With regard to the 103, applicant traverses the propriety of the 103 rejections because the examiner has already asserted all the claimed elements are present for

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the 102 rejections. As the references cited under 102 were applied using inherency, it is deemed proper to additionally apply a 103 rejection in accordance with MPEP 2112. In that section, the appropriateness of doing a rejection under 35 USC 102 and 103 is explicitly stated as being appropriate for such situations.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Ted Kim whose telephone number is

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703-308-2631. The Examiner can be reached on regular business hours before 5:00 pm, Monday to Thursday and every other Friday.

The fax numbers for the organization where this application is assigned are 703-872-9306 for Regular faxes and 703-872-9306 for After Final faxes.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on 703-308-2675.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist of Technology Center 3700, whose telephone number is 703-308-0861.

General inquiries can also be directed to Technology Center Customer Service Office at 703-306-5648 or the Patents Assistance Center whose telephone number is 800-786-9199. Furthermore, a variety of online resources are available at <http://www.uspto.gov/main/patents.htm>



Ted Kim
Primary Examiner
August 18, 2004

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